

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2002-091918

02/17/2011

HONORABLE HELENE ABRAMS

CLERK OF THE COURT

K. Depue

Deputy

IN RE THE MATTER OF  
JESSICA ELIZABETH SCAPELLATI

KELLIE N WELLS

AND

DEREK PAUL LUBINSKI

DEREK PAUL LUBINSKI  
1000 W ENCINAS STREET  
GILBERT AZ 85233

AG-CHILD SUPPORT-EAST VALLEY  
OFFICE  
TASC - MESA

TRIAL SETTING

Courtroom 204 – SE

11:29 a.m. This is the time set for Resolution Management Conference on Mother's *Petition to Modify Parenting Time and Child Support* filed November 12, 2010 and Father's *Petition to Enforce Child Custody Order* filed December 7, 2010. Petitioner/Mother is present with James Padish on behalf of above-named counsel. Respondent/Father is present on his own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Jessica Scapellati and Derek Lubinski are sworn.

Discussion is held.

By agreement of the parties,

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IT IS ORDERED that Father shall undergo random drug testing on the following basis:

A. Agency. Father's random drug testing shall be conducted at a location of TASC, Inc., the main office of which is at 2234 North 7<sup>th</sup> Street, Phoenix, Arizona, 602-254-7328. Other locations are listed on the TASC referral form and may be viewed at [www.tascaz.org](http://www.tascaz.org).

B. First Test. Father shall report to TASC **no later than Noon tomorrow, February 18, 2011**, for his first test.

C. Scope. Father shall undergo a full spectrum substance and drug test (Screen "A") for each test ordered herein.

D. Cooperation. Father shall cooperate fully as reasonably required by the testing agency to comply with this Order, including:

1. Father shall provide such samples as are reasonably required by the testing agency to comply with this order.
2. Father shall timely report for testing and provide samples as directed by the testing agency.
3. Father shall present photo identification to the testing agency at the time of each test.
4. Father shall sign and deliver such forms of consent, authorization and release of test results as shall be reasonably required by the testing agency to comply with this Order.

E. Cost. Father shall pay the cost of his testing (\$25.00 per test) in money order or cashier's check at the time of testing.

F. Frequency & Duration. Father shall be randomly tested two (2) times per month until he has obtained 3 consecutive months of negative tests. Testing shall then be complete.

G. Positive/Diluted/Missed Test. In the event that Father tests positive on any test, misses a random test, or provides a diluted test sample on any test, the cycle and frequency of testing set forth in paragraph F above, shall be started again with weekly tests. All parties are advised that the failure, neglect or refusal to participate in testing, or providing a diluted test sample at the time of testing, may be considered an admission by the party that the testing, if properly conducted, would have revealed the use of the substance(s) tested for, which finding is contrary to

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the best interest of a child. Certain prescription medications may cause a positive drug test result. Parties who are required to drug test are expected to provide proof to the court of prescriptions and documentation from health care providers regarding the lawful possession and use of those medications.

H. Reporting. The parties are hereby advised that test results ARE NOT confidential and will be filed in the Court file upon receipt by the Court. The results of each test shall be reported directly to counsel for both parties, or directly to the parties at the addresses provided by the parties to the testing agency, if unrepresented by counsel. The testing agency shall also provide this Court with a Monthly Drug Test Summary Report.

*ISSUED: Court Ordered Substance Abuse Testing*

IT IS FURTHER ORDERED that Father shall have no unsupervised visits until three (3) consecutive months of negative drug tests.

IT IS FURTHER ORDERED that Father shall have supervised parenting time by Ms. Jodie Rubin as a therapeutic visit when the minor child is having therapy sessions with the counselor.

Discussion is held.

IT IS ORDERED setting this matter for **Trial/Evidentiary Hearing** regarding the Petition to Modify and the Petition to Enforce **on July 11, 2011 at 10:00 a.m. (time allotted: 2 hours)** before the Honorable Helene Abrams at:

Maricopa County Superior Court  
Southeast Judicial District  
Courtroom 204  
222 E. Javelina Avenue  
Mesa, AZ 85210

**JOINT PRETRIAL STATEMENT**

IT IS FURTHER ORDERED that the parties shall file and provide this Division with a copy of a **Joint** Pretrial Statement pursuant to Rule 6.5, Local Rules of Practice – Maricopa County (Domestic Relations Cases), no later than **7 days prior to trial**.

IT IS FURTHER ORDERED that both parties submit the following attachments to the Joint Pretrial Statement:

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1. A current Affidavit of Financial Circumstances in accordance with Local Rule 6.4(b), accompanied by copies of federal income tax returns for the past two years along with W-2 or 1099 forms and copies of the last four pay stubs.
2. A current Parent's Worksheet for Child Support Amount pursuant to the Statewide Child Support Guidelines.
3. If there are disputed custody, access or visitation issues, a specific proposal for custody and visitation.
4. If there are disputed issues regarding division of property, a current and detailed inventory and appraisal of property and assets of the parties, together with a summary proposal by each party as to how the property and assets should be divided. If possible, the Court prefers a one page statement of all property except personal property items valued at less than \$500.00 each. If division of the marital residence is at issue at trial, the party seeking to be awarded the marital residence shall offer as an exhibit at trial the true and accurate legal description of the property.
5. A list of debts with balances.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of trial, or to timely present the Joint Pretrial Statement in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 16(f), Arizona Rules of Civil Procedure, and Local Rule 6.6, including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

**EXHIBITS**

IT IS FURTHER ORDERED any evidence intended to be submitted as exhibits at the time of the Trial must be brought to this Court's Clerk in Courtroom 204 **no later than 7 days before trial with a coversheet listing the description of the exhibits.** All exhibits must be hand-delivered to Courtroom 204. **All exhibits must be clearly identified, stapled separately and separated by a COLORED sheet of paper.** The parties shall coordinate their exhibits so that each party does not present duplicate exhibits of the other party. **Any exhibits not submitted at least seven (7) days prior to the trial may not be accepted and/or marked prior to trial. Absent good cause, failure to submit all exhibits by that date will result in those items being prohibited from being utilized at the trial.**

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NOTE: If either party intends to offer as evidence the digital or electronic recording from a prior court proceeding, the party shall also provide to the Court a certified transcript of the recording, which shall be marked as an exhibit. The party seeking to offer the recording as evidence shall bear the cost for preparation of the transcription. If either party intends to offer documents as evidence that are in a language other than English, the Court shall be provided with an official certified translation of the documents.

IT IS FURTHER ORDERED that the parties shall indicate in the Joint Pretrial Statement which exhibits they have agreed will be admissible at trial as well as any specific objections that will be made to any exhibit if offered at trial which is not agreed to be admitted. Reserving all objections to the time of trial will not be permitted. At the time of trial all exhibits which the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Joint Pretrial Statement shall be summarily admitted.

**FINDINGS OF FACT**

IT IS FURTHER ORDERED that any party filing a request for findings of fact and conclusions of law pursuant to Rule 82, Arizona Rules of Family Law Procedure, **shall submit proposed findings of fact and conclusions of law to this Division no later than 20 days prior to trial.** Any controverting findings of fact and conclusions of law proposed by the adverse party shall then be submitted no later than ten days prior to trial.

**SETTLEMENT**

Counsel and the parties are reminded of their obligation to give prompt notice of any settlement to the Court in accordance with Rule XII(b), Uniform Rules of Practice, and Maricopa County Local Rules 2.10(b) and 3.6(c).

The Court notes that if either party fails to appear at trial, default judgment may be entered against him or her and/or the matter may proceed at that time to trial or to a default judgment hearing under Rule 55(b)(2).

IT IS ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall complete all disclosure requirements required by Rules 49 and 50, *Arizona Rules of Family Law Procedure*, including an exchange of all relevant information, documents and exhibits **30 days prior to the trial date. (If there is not enough time before trial, confer with the Judge).**

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2. All depositions and discovery contemplated by Rules 49 through 65, *Arizona Rules of Family Law Procedure*, shall be completed and any motions regarding discovery shall be filed **30 days prior to the trial date. (If there is not enough time before trial, confer with the Judge).**

3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to trial to conduct settlement discussions, prepare a Joint Pre-trial Statement, exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or health care provider or employer possessing any relevant information.

If a party is forced to incur attorney's fees or other costs to obtain documents or records by subpoena or other legal process after reasonable request of the other party to obtain such information in a more efficient or economical manner, the Court will consider a request for payment or reimbursement of such fees and costs at the time of trial.

12:15 p.m. Matter concludes.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. HELENE ABRAMS

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HONORABLE HELENE ABRAMS  
JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.